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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 AVERY ALLEN CHURCH, JR.,

8 Plaintiff(s),

9 v.

10 NEVADA DEPARTMENT OF
11 CORRECTIONS, et al.,

12 Defendant(s).

Case No. 2:18-CV-53 JCM (DJA)

ORDER

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14 Presently before the court is plaintiff Avery Allen Church Jr.'s ("plaintiff") motion for
15 leave to file a second amended complaint. (ECF No. 39). Defendants Loaan, Lozano, and
16 Padillo (collectively "defendants") filed a response (ECF No. 43), to which plaintiff replied
17 (ECF No. 44).

18 Also before the court is Magistrate Judge Albregts's report and recommendation
19 ("R&R") recommending that plaintiff's motion for leave to file a second amended complaint be
20 denied. (ECF No. 46). Plaintiff did not file an objection, and the time to do so has passed.

21 Also before the court is plaintiff's motion to prohibit defendant from seizing and
22 searching legal documents. (ECF No. 28). Defendants filed a response (ECF No. 29), to which
23 plaintiff replied (ECF No. 31).

24 This court "may accept, reject, or modify, in whole or in part, the findings or
25 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects
26 to a magistrate judge's report and recommendation, then the court is required to "make a de novo
27 determination of those portions of the [report and recommendation] to which objection is made."
28 28 U.S.C. § 636(b)(1).

1 Where a party fails to object, however, the court is not required to conduct “any review at
2 all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149
3 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a
4 magistrate judge’s report and recommendation where no objections have been filed. *See United*
5 *States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review
6 employed by the district court when reviewing a report and recommendation to which no
7 objections were made).

8 Nevertheless, this court conducted a *de novo* review to determine whether to adopt the
9 recommendation of the magistrate judge. Upon reviewing the recommendation and attendant
10 circumstances, this court finds good cause appears to adopt the magistrate judge’s findings in
11 full.

12 The court now turns to plaintiff’s motion to prohibit defendant from seizing and
13 searching legal documents. Defendants aver as follows:

14 Although Plaintiff’s request was file stamped on July 19, 2019, he
15 prepared it on July 14, 2019. ECF No. 28 at 1. Additionally, the
16 envelope is dated July 15, 2019. ECF No. 28 at 3. Plaintiff
17 received and signed for his property on July 15, 2019, the day after
18 writing a letter claiming he has not yet received his property. The
19 letter however was not filed until July 19, 2019, four days after
20 having received the property. This appears to just be odd timing. In
21 any event, Plaintiff has already received the property he is
22 claiming NDOC is withholding from him, and therefore Plaintiff’s
23 request is moot and should be denied.

24 (ECF No. 29 at 4). Because plaintiff’s belongings were returned to him, the court denies his
25 motion as moot.

26 Accordingly,

27 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Magistrate Judge
28 Albregts’s R&R (ECF No. 46) be, and the same hereby is, ADOPTED.


IT IS FURTHER ORDERED that plaintiff’s motion for leave to file a second amended
complaint (ECF No. 39) be, and the same hereby is, DENIED.

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1 IT IS FURTHER ORDERED that plaintiff's motion to prohibit defendant from seizing
2 and searching legal documents (ECF No. 28) be, and the same hereby is, DENIED as moot.

3 DATED November 13, 2019.

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5 UNITED STATES DISTRICT JUDGE
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